

**Country session:** United States of America

**Date:** 75th session- 16 May 2017

## Background information

[OHCHR press release](#)

[Webcast](#)

[Audio file](#)

[Summary of records](#)

## Reporting

### Reporting methodology

**Regular reporting procedure**

Simplified reporting procedure

Concluding Observations with urgent measures

### State reports

Common core document		
OPAC	<a href="#">Initial submission</a>	20 April 1999
OPSC	<a href="#">Initial submission</a>	29 July 1994
	<a href="#">Second submission</a>	16 January 2006
	<a href="#">Third submission</a>	30 December 2011

CRC		OPAC		OPSC	
No. of report	Not ratified	No. of report	Combined third and fourth Periodic Report	No. of report	Combined third and fourth Periodic Report
Due date	-	Due date	23 January 2016	Due date	23 January 2016
Submission	-	Submission	22 January 2016	Submission	22 January 2016
Written replies	Due date: -	<a href="#">Written replies to LOIs</a>	Due date: 23 February 2017	<a href="#">Written replies to LOIs</a>	Due date: 23 February 2017
	Submission: -		Submission: 14 March 2017		Submission: 14 March 2017

Additional comments: The Committee welcomed the timely, robust and comprehensive information presented in the State reports and the written replies to the LOIs.

### Public reports of children's rights defenders

Alternative reports	
NGOs	<ul style="list-style-type: none"> <li>Women's International League for Peace and Freedom: WILPF</li> </ul>

## State delegation

Large high level and multisectoral delegation led by the Acting Legal Adviser of the Department of State, Mr. Richard Visek. He was supported by representatives of the Department of State, Department of Homeland Security, Department of Justice and Department of Defense.

List of State delegation representatives on [OHCHR site](#)

## Committee's Task Force members

Name & Last name	Country
Amal Aldoseri (OPAC)	Bahrein
Benyam Mezmur (OPAC)	Ethiopia
Jorge Cardona (OPSC)	Spain
Hatem Kotrane (OPSC)	Tunisia

## Dialogue description:

### i. Character of the dialogue

The Committee found the dialogue open and honest. The answers of the State to the Committee's questions on OPAC were mainly focused on national and international obligations under the law; whereas on OPSC the replies were focused in law implementation and programs to tackle child trafficking.

### ii. General assessment made by the Committee:

The Committee welcomed the progress of the State as per its last concluding observations, but stated that there are still many issues around the Protocols that cannot be fully covered by the State due to their ties with the CRC. The coordinator of the Task Force reiterated the importance of ratifying the Convention to fully protect children and uphold their rights, and asked about the status of this process.

### iii. Main issues discussed:

#### *Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography*

- **Legislation, policies and strategies:** The Committee raised its concerns on the fact that while the legal system widely covers trafficking for sexual purposes, less references were made to the other offenses under the OPSC. Members pointed out the lack of a comprehensive strategy addressing all the provisions under the OPSC and regretted the absence of programs addressing the sale of children, particularly, labor exploitation, sale of organs and not regulated international adoption. The State stressed that in national law, human trafficking included sale of children for prostitution and sex trafficking. It also underscored the importance to work with civil society and the private sector to protect children from sexual exploitation and trafficking in tourism.
- **Surrogate motherhood:** Committee members noted that even if this topic could fall outside the protocol's scope, surrogate motherhood could lead to sale of children, since in the US parties make pre-birth contracts to determine parentage. The delegation replied that these cases are dealt within the family context and are related to developing technology. It admitted to be aware of the complexity of this area, and stated that the issue will be addressed outside this protocol.



- **Protection of the rights of child victims:** The Committee raised concerns about the lack of specialized services for child victims of trafficking, pornography and other offenses. Members pointed out the lack of protection for children who consented to prostitution, who continue to be legally arrested and prosecuted and neglected of protection from exploitation. The delegation replied that juveniles are not prosecuted in federal courts, only in some cases and the decision depends on the State and the judges. As per child pornography victims there are programs available for them, the prosecution is handled by the states and children do not have to pay an attorney. Victims are also entitled to seek for restitution by offenders (Ex: to pay back for counseling).

*Optional Protocol on the involvement of children in armed conflict*

- **Right to life, survival and development:** The Committee was highly concerned about the killings of children as result of the State's military operations in Yemen, Syria and Afghanistan. Members asked the delegation about preventive measures before launching these operations to ensure that children are protected, as well as for the status of investigations of the responsible of killings and maiming of children. The State delegation replied that all the military operations were conducted in comply with international humanitarian law. They stated that the US is committed to protect civilians in contexts of armed conflict and that following an executive order of 2016, measures before and after the strikes were conducted to address civilian casualties. An assessment is made by a legal advisor to determine whether the strike was legal and proportionate. Moreover, the delegation stated that investigations within the Department of Defense were carried if civilian casualties happened.
- **Voluntary recruitment:** The Committee asked about how parental consent was obtained for voluntary recruitment of 17 years old children to the armed forces and whether the State was considering to raise age of voluntary recruitment to 18 years. Members inquired about the quota system for voluntary recruitment and the possibility to abolish it, and requested more information about plans to restrain access to private information of potential recruits.  
The State delegation stressed that every military recruiter attended courses on prevention of child trafficking and child soldiers. Moreover, the delegate stated that 17 years old new recruits were briefed on the provisions of their contract, and a meeting with parents/caregivers was held to sign the contract and explain the implications and challenges of military service. The delegation explained that the minimum age was not going to be raised at 18 years because when children finished high school at 17 they need job opportunities, such as the military service. They also stressed that access to private information on high schools of new recruits was highly controlled and regulated.
- **Arms export and military assistance:** The Committee requested more information about the system of presidential waivers regarding military assistance and sale of arms, and expressed its concerns about the waivers that might have been granted to countries where child soldiers were used. The Committee asked specifically for the case of South-Soudan. The State delegation replied that the waivers system sought to reform and professionalize foreign forces on human rights and no further references to the South Sudanese case were made.
- **Treatment of children associated with armed groups:** Committee members inquired about reintegration and recovery programs for children released from Guantanamo since 2015. As well as steps taken by the US to ensure that children detained in camps under Afghan authorities were provided with protection, and whether protection provisions were considered within bilateral agreements. The State delegation stressed that Afghanistan was a sovereign state, however there were cooperation mechanisms through which the US monitored and followed up on issues of concern. It also reiterated that the ICRC was the organization with the mandate to undertake visits to prisons and therefore the US did not have access to this information.

## Recommendations of the Committee

In a General observation, the Committee expressed its concerns about the fact that the State party has not yet followed its previous recommendations to accelerate the ratification process of the Convention on the Rights of the Child.

### *Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography*

In its [Concluding Observations](#), the Committee recommended, inter alia:

- **Legislation, policies and strategies:** The State should define and explicitly prohibit all offenses of the Optional Protocol at the federal level and within all states. As well as ensuring harmonization between national and federal laws as per the minimum age of the child. Moreover, it should ensure a staffed and budgeted comprehensive strategy addressing all the offenses of the protocol, including rehabilitation and reintegration programs for child victims.
- **Surrogate motherhood:** The Committee recommended to consider the possibility of developing legislation addressing sale of children in the context of surrogate motherhood.
- **Protection of the rights of child victims:** The State should revise its national law to distinguish between children and adult victims and therefore provide child specialized services to child victims. Moreover, child involvement in prostitution should be effectively decriminalized across the country. The Committee recommended to adopt safe harbor laws for children forced to engaged in criminal activities, and to allocate more resources for recovering and rehabilitation programs for child victims, strengthening joint action with NGOs working on this issue.

### *Optional Protocol on the involvement of children in armed conflict*

In its [Concluding Observations](#), the Committee recommended, inter alia:

- **Legislation:** The State should review and amend its national legislation (2008 Child Soldiers Accountability Act and 2008 Child Soldiers Prevention Act). This to explicitly prohibit the recruitment of children between 15 and 18 years old by armed forces, including private military and security companies. It should also withdraw the possibility of presidential waivers to countries where child recruitment and use of children in armed conflict occur.
- **Reservations:** The State should revise its restrictive understanding of the provisions of the OPAC, particularly in regards to the minimum age for recruitment and the concept of “direct part in hostilities” to ensure that no children are exposed to activities in the context of armed conflict.
- **Independent monitoring:** The Committee echoed its previous concluding observations, and recommended the State to create an independent national human rights institution. Moreover, federal states should establish Ombudsman offices for children to fill their complaints in a child-friendly manner.
- **Right to life, survival and development:** The Committee reiterated its previous recommendations and reminded the State about its responsibilities for the protection of civilians, including children, and for the prevention of civil casualties in the context of armed conflict. The Committee urged the State to take concrete and firm measures to prevent indiscriminate use of force against civilians, especially children, and prevent further killings. Moreover, the State should ensure that all alleged violations against children by US military forces are investigated and prosecuted in a transparent and timely manner, and that children victims of attacks receive proper compensations and remedies.



- **Voluntary recruitment:** The State should revise its recruitment policies to ensure that no person under 18 years old is enlisted into the military services and deployed to hazardous areas. The abolition of the quota system for voluntary recruitment is needed and the access to private information should be limited and subject to parental consent. The monitoring and oversight of the recruiters' behavior should be strengthened and investigations undertaken when irregularities and misconducts are detected.
- **Impunity:** The Committee stressed its deep concerns about human rights violations, including children's rights, by private military and security companies. The State should start prompt and timely investigations, bring perpetrators to justice and provide child victims with compensations and remedies.
- **Treatment of children associated with armed groups:** The Committee expressed its concerns about the lack of information provided by the State on the investigation of the alleged tortures and ill-treatments of children detained by international military forces in Afghanistan reported by UNAMA – United Assistance Mission in Afghanistan. The State should use its role in Afghanistan to prevent national authorities from committing torture and protect child victims, as well as providing information on the above-mentioned investigation.
- **Arms export and military assistance:** The Committee urged the State to review its legislation and withdraw the presidential waivers, as well as prohibit arms selling and military assistance to countries where children are being recruited or are in danger of being recruited by State and non-State armed groups.

### Next State report

OPAC	
<b>No. of report</b>	Fifth periodic report
<b>Due date</b>	23 January 2022

OPSC	
<b>No. of report</b>	Fifth periodic report
<b>Due date</b>	23 January 2022

***Disclaimer:** Child Rights Connect reports are all drafted in English. If the State report and/or the alternative reports were submitted in another UN language (Spanish, French, Arabic, Russian or Chinese) the report will be translated accordingly.*